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ACT

For the prevention of Vexations
and Oppressions by Arrests ;
And of Delays in Suits of
LAW.



DUBLIN,

Printed by Andrew Crook, Printer to the Kings
Most Excellent Majesty, on Ormonde-Key, 1695.

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AN ACT for the prevention of Vexations and Oppressions by Arrests: And of Delays in Suits of Law: in the first year of the said Majesty King George the Third.

WHEREAS by the Laws of this Kingdom, in Cases where any Person is sued, Impleaded or Arrested by any Writ, Bill or Process, issuing out of any of his Majesty's Courts of Record, at Dublin, in any Common Pleas, at the Suit of any Common Person, the Trial Cause of Action ought to be set forth and Expelled in such Writ, Bill or Process, whereby the Defendant may have certain Knowledge of the Cause of the Suit; and the Officer who shall execute such Writ, Bill or Process, may know how to take Security for the Appearance of the Defendant to the same, and the Sureties for such Appearance may rightly understand for what Cause they become Engaged.

And whereas there is a great Complaint of the People of this Kingdom, that for Divers Years last past, very many of his Majesty's Good Subjects have been Arrested upon several Writs of Treasures, Quare Clausum Fregit, and other like Writs, issued out of the Courts of King Bench, and Common Pleas, not Expelling any Particular of Certain Cause of Action, and thereupon kept Prisoners for a long time for want of Bail, Bonds, such Sureties for Appearance, having been Demanded in great Sums,

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Summis, that few or none have Dared to be
Security for the Appearance of such Persons so
Arrested and Imprisoned; altho in Truth there
hath been little or no Cause of Action, and of-
tentimes there are no such Persons who are
named Practises; but those Arrests have been
many times procured by Malicious Persons to
Hear and Oppress the Defendants, and to force
from them Unreasonable and Unjust Compensi-
tion for Obtaining their Liberty; and by such
evil Practices many Men have ben, and are
Daily Endowed, and Destroyed in their Estates,
without Possibility of having Reparation, the
Attors Employed in such Practices having been
(for the most part) Poor and Lucking Per-
sons, and their Affairs Secret, that it hath
been found very Difficult to make True Disco-
veries on proof thereof. For Remedy and prevention of which so great
growing Evils and Mischies And also for
Discouraging all frivolous and Unjust Suits
and Causeless Arrests for the future.
Be it Enacted by the Kings Most Excellent
Majesty, by and with the Advice and Consent
of the Lords Spiritual and Temporal, and
Commons in this present Parliament Assembled,
and by Authority of the same, That from and
after the Twelfth Day of December next, no Per-
son or Persons who shall happen to be Arrested
by any Sheriff, Under-Sheriff, Coroner, Stew-
ard or Bayll of any Franchise or Liberty, or
by any other Officer, Minister, Under-Bayll,
or any other Person or Persons whatsoever
within this Realm, having or pretending to have
Authority or Warrant in that behalf, by force

or Colour of any Writ, Bill, or Process, return-
ing, or to be returning out of his Majesty's said
Court of Kings Bench and Common Pleas, or ei-
ther of them, or other Court of Justice in which
said Writ, Bill, or Process, or at the Foot
thereof, the Certainty or True Cause of Action
is not Expressed, Marked, or Set Down par-
ticularly; and for which the Defendant or De-
fendants in such Writ, Bill, or Process de-
manded is and are Boundable by the Statute in that
behalf made in the Third and Twentieth Year
of the Reign of the Late King Henry the Sixth,
shall be forced or Compelled to give Security,
or to Enter into Bond with Sureties for the
Appearances of such Person or Persons so Ar-
rested, at the day and place in the said Writ,
Bill, or Process, on the Foot thereof Specified or
Contained in any Penalty or Summ of Money
exceeding the Summ of Forty Pounds of Law-
ful Money of England, to be Conditioned for
such Appearances. And that all Sheriffs and
other Officers and Ministers aforesaid, shall let
to Bail, and Deliver out of Prison, and from
their and Every of their Custodies, Respectively,
all and every person or persons whatsoever, by
them, or any of them Arrested upon any such
Writ, Bill, or Process, wherein the Certainty
and True Cause of Action is not particularly
Expressed, as aforesaid, upon Security in the
Summ of forty pounds. And no more, given for
Appearances of such person or persons so Arrested,
unto the said Sheriff or Officer aforesaid, accord-
ing to the said Statute in the said Third and
Twentieth Year of the Reign of the said King
Henry the Sixth, in that behalf made and provided.

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shall be it further Enacted by the Authority
aforesaid, That upon Appearance to be Entered
in the Term wherein such Writ, Bill, or Pro-
cess is returnable with the Respective Officer
in that behalf for the said person or persons,
by Attorney or Attorneys in the said Respective
Courts from whence the said Writ, Bill, or
Process issued with such Writ, Bill, or Process,
the Bond or Bonds so given for Appearance
thereunto, be, and are hereby satisfied and Dis-
charged; And that after such Appearance so
Entered, no Amercement be Sett or Extreated
upon, or against any Sheriff, or other Officer
aforesaid, or any other person whatsoever, Con-
cerning the want of such Appearance; And
that the Plaintiff or Plaintiffs in any such
Writ, Bill, or Process Named, shall put into
the Court from whence such Writ, Bill or Pro-
cess did Issue, his or their Bill or De-
claration against the person or persons so Ac-
cused in some personal Action (Ejectione firme)
of Lands and Tenements before the End of the
Term next following for Appearance, that then
a Non suite for want of a Declaration may be
Entered against the said Plaintiff or Plaintiffs in
the said Courts, Respectively: And that Every
Defendant in every such Writ, Bill or Process
Named, shall or may have Judgment to Reco-
ver Costs against Every such Plaintiff or Plai-
ntiffs be Adjudged, Taxed, and Levied in such
manner, and according as it is provided by the
Statute for Costs made in the Thirteenth and Four-
teenth Year of the Reign of the Late King Henry
the Eighth, any former or other Act, Statute,
Providence, Law, Custom, Order, Course or Use
in that behalf.

age of either of the said Courts to the Contrary thereof heretofore had, made, admitted, or used in any wise notwithstanding any other writ or prohibition always that this Act, nor any Clause or Thing herein before Specified or Contained shall not Extend or be Construed or Taken to Extend unto any Arrests hereafter to be made upon, or by Virtue of any Writ of Capias Velagatum, Attachment upon Persons, or Attachment upon any Contempt, or of any Attachment of Privilege, at the Suit of any Privileged person, or of any other Attachment for Contempt whatsoever, Issuing, or to be Issuing out of Either of the said Courts, altho there be no particular Certainty of the Cause of Action Expressed or Contained in the said Writts, but that Nevertheless no Sheriff or Under-Sheriff, nor any of the Officers or Ministers aforesaid, shall Discharge any person or persons taken upon any Writ of Capias Velagatum, out of Custody without a Lawful Superedeas first had and Received for the same, and that upon the said Writts of Attachment such Lawful Courts be taken for Security for Appearance therein as hath been heretofore Used, any thing herein before Expressed to the Contrary thereof in any wise notwithstanding.

And whereas many persons out of ill Usage do Delay their Creditors from Recovering their Just Debts continue Prisoners, who cannot be proceeded against in such manner as they might be if they were at Large: Now for the better Enabling all and Every person or persons to Recover their Just Debts and Demands against such Prisoners as shall be so detained, we do hereby

It is further Enacted by the Authority aforesaid, That Every person or persons whatsoever who now hath or have, or which at any time hereafter shall have Cause of any personal Action against any person, being a Prisoner in Prison, may sue forth any Original Writte upon his or their Cause of Action: And that a Writte of Habeas Corpus be granted to Every such person or persons being Plaintiff or Plaintiffs, desiring the same to be Directed to the Goalier, or Keeper of the same Prison, to have the Body of such Prisoners before any his Majesty's Justices of the Kings Bench, or Common-Pleas at some certain Day in any Term, to Answer the said Plaintiff or Plaintiffs upon his or their said Cause of Action: And that if the said Plaintiff or Plaintiffs at the said Day put into the said Court his or their Declaration, according to the said Original Writte against the said Prisoner being present at the Bar, the said person shall be bound to appear in person, or to put in an Attorney to appear for him in the said Action, and unless the said Defendant plead upon a Rule given to be out at the Eight Days at the least, after such Appearance Judgment by Nihil dicat may be Entred against such Defendants as Appearing in person, which shall be Good and Effectual in Law: And such Charge in Court by Declarations signed by Rule unto the Goalier or Keeper shall be a Good Cause of Detention of such Prisoner in his Custody, from which he shall not be Discharged without a Lawfull Superedeas, or Rule of Court: And if the said Goalier or Keeper shall do otherwise, he shall be Responsible to the Court, and to the Party grieved

grieved for Damages by Action upon the Case, to be brought against him for Discharging such Prisoner. And whereas very many Suites Commenced by Original Writts have been Protracted and long Delayed from Judgment and Execution, by Reason of the Necessity of having Fifteen Days, at the least, between the Days of the Teste, and the Days of the Return of Writts now Used in personal Actions, and also in Actions of Ejection firme, for Lands and Tenements. For Remedy whereof, and for the more Easy Expediting Tryals, and the better and more speedy Executing Judgments for the time to come.

Be it further Enacted, by the Authority aforesaid, That in all Actions of Debt, and all other personal Actions whatsoever; And also in Actions of Ejection firme, for Lands or Tenements, now Depending, or which at any time hereafter shall be Depending in either of his Majesty's Courts aforesaid, after any Issue therein Joyned, to be Tryed by a Jury; and also after any Judgment had or obtained, or to be had or obtained in any the Courts aforesaid, in any such Action, as aforesaid, there shall not need to be Fifteen Days between the Teste and Day of Return of any Writt or Writts of Venire facias, Habeas Corpora Jurator, or Distringas Jurator. Writts of Riari facias, or Writts of Capias ad Satisfaciendum, and that the want of Fifteen Days between the Teste Day, and the Day of the Return of any such Writt, shall not be, nor shall be Assigned, Taken, or Adjudged to be any Matter or Cause of Error: Any Law, Custom,

from, Statute, Course of Usage to the Contra-
ry thereof, in any wise notwithstanding.

Provided Nevertheless that this Act, nor any
thing therein Contained shall not Extend, or be
Construed to Extend to any Writ of Capias ad
Satisfaciend. Whereon a Writ of Exigent after
Judgment is to be Awarded, nor to Capias ad
Satisfaciend. against the Defendant, in Order to
make any Bail Payable, but that the same Con-
tinue and be as if this Act had never been made.

And whereas by an Act of Parliament made
in this Kingdom in the Tenth year of the
Reign of our late Sovereign Lord King Charles
the First, of Blessed Memory, a very good Law was
made for avoiding Unnecessary Delays of Execu-
tion, whereby it is Enacted, That no Execu-
tion shall be Stayed or Delayed upon or by any
Writ of Error, or Superedeas thereupon, to
be Sued for the Reversing of any Judgment to
be given in any Action or Bill of Debt, upon
any single Bond for Debt, or upon any Obliga-
tion, with Condition for payment of Money
only, or upon any Action or Bill of Debt for
Rent, or upon any Contract Sued in any of
his Majesties Courts of Record at Dublin; un-
less such person or persons in whose name or
names such Writ of Error shall be brought
with two sufficient Sureties, such as the Court
wherein such Judgment is or shall be given
shall allow of, shall first before such Stay made
or Superedeas to be awarded, be bound to the
party for whom any such Judgment was or
should be given by Recognizance to be acknow-
ledged in the same Court, in double the Summ
adjudged, to be recovered by the said former
Judgment,

Judgment, to prosecute the said Writ of Error with Effect, and also to satisfy and pay (if the said Judgment shall be affirmed) all and singular the Debts, Damages and Costs adjudged, or to be adjudged upon the former Judgment, and all Costs and Damages to be also awarded for the same delaying of Execution, which Law hath been found by experience to be very good and beneficial to the Commonwealth. And forasmuch as divers other Causes wherein the same Writ by Delays and Staying of Execution by Writs of Error and Superfedeas thereupon are not provided for by the Statute in the several Actions hereafter Specified.

Be it further Enacted, That the said Recited Act be of Force in this Kingdom. And be it further Enacted and Ordained, by the Authority aforesaid, That from and after the Twentieth Day of December next no Execution shall be Stayed in any of His Majesties Four Courts, or in the County Palatine of Tipperary, by any Writ or Writs of Error or Superfedeas thereupon, after any Verdict and Judgment thereupon obtained in any Action of Debt, or in any Action upon the Case, upon any Promise for the payment of Money, Actions Sur Trover, Actions of Covenant, Detinue and Trespas, unless such Recognizance, and in such manner as by the said Recited former Act is Directed, shall be first Acknowledged in the said Court where such Judgment is given.

And be it also Enacted by the Authority aforesaid, That if any Person or Persons after the said Day shall Sue or Prosecute any Writ or Writs of Error for the Reversal of any Judgment whatsoever given after any Verdict in any

any the Courts aforesaid; and the said Judgment shall afterwards be Affirmed, then Every such Person or Persons shall Pay unto the Defendant or Defendants in the said Writ or Writs of Error, his or their Double Costs, to be Assessed by the Court where such Writ of Error shall be Depending, for the Delaying of Execution.

Provided Nevertheless that this Act, nor any Thing therein Contained, shall not Extend to any Action Popular, nor unto any other Action which is, or hereafter shall be brought upon any Penal Law, or Statute, nor to any Indictment, Presentment, Inquisition, Information or Appeal, any thing herein before Expressed to the Contrary thereof Notwithstanding.

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